

CITY COUNCIL REPORT



MEETING DATE: SEPTEMBER 6, 2005

ITEM NO. 3

GOAL: Coordinate Planning to Balance Infrastructure

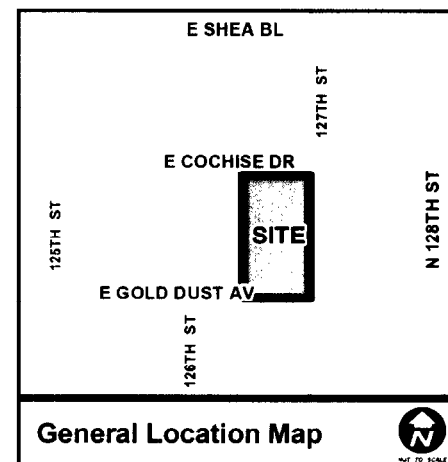
SUBJECT Gold Dust Property - 6-HE-2005

REQUEST Request to approve an Environmentally Sensitive Lands Ordinance (ESLO) Hardship Exemption from the 15 foot wall setback requirement located at 12654 & 12686 E Gold Dust Avenue and 12656 E Cochise Drive.

OWNER NC Gold Dust Main LLC
602-852-3400

APPLICANT CONTACT Steven Voss
LVA Urban Design Studio LLC
480-994-0994

LOCATION 12654 & 12686 E Gold Dust Avenue
and 12656 E Cochise Drive



BACKGROUND

Zoning.

The site is zoned R1-43 ESL (Single Family Residential) District. The R1-43 ESL zoning district allows for single-family residences on parcels of 43,000 square feet or greater. The Environmentally Sensitive Lands (ESL) designation contains standards to maintain and protect the natural desert including the provision of NAOS. The most recent update to ESLO requires that site walls for lots of this size maintain a 15-foot property line setback to facilitate drainage and wildlife movement between developed portions of lots. Where each adjoining property provided a 15-foot property line setback, a 30-foot wide, open space (NAOS) will result.

General Plan.

The General Plan Land Use Element designates the property as Rural Neighborhoods. This category includes residential zoned properties of the size of the subject site and surrounding properties and supports the R1-43 zoning.

Context.

The site is located between Gold Dust and Cochise near the 126th Street Alignment, in the East Shea Boulevard area. The surrounding property is zoned R1-43ESL on each side of the site.

**ORDINANCE
REQUIREMENTS**

Section 6.1071.A.3.d.4 states that walls shall be set back from the property line a minimum of fifteen (15) feet from a side and rear property line of single family residential parcels containing 35,000 square feet or greater.

**APPLICANT'S
PROPOSAL****Goal/Purpose of Request.**

The purpose of the request is to obtain a Hardship Exemption pursuant to Section 6.1022.D. of the ESL Ordinance based on the circumstances of the site and difficulties in developing this site due to existing development and walls located on adjoining properties.

Applicant's Request.

The request is for an exemption of the 15 foot wall setback where the site is adjacent to parcels that contain existing residences and where existing walls have been established by those property owners on or near the common property lines. The requested wall exemptions are to permit a wall on the common property line between Lots 1 and 2, a wall along the property line along the western property line on Lot 3 and along the eastern boundary line of Lot 1. Existing walls are located on or near portions of the eastern property line of Lot 1 and the western property line of Lot 3.

Key Issues.

- A hardship exemption is requested for walls to be located within the required 15 foot wall setback.
- Two (2) of the property lines have had walls constructed walls on or near the common property lines by the adjoining property owners.
- One (1) of the walls will be constructed on the common property line of undeveloped lots owned by the applicant.
- One neighbor has expressed opposition in a phone call to city staff indicating a desire that the applicant conform to current provisions.

Community Impact.

Impact to the community is not expected to be significant. The wash running through the site will provide sufficient area to facilitate drainage and wildlife habitat and movement. Existing walls are located along the southeast and northwest sides of the site.

IMPACT ANALYSIS**Development information.**

The applicant has received land division approval for 3 lots from the subject 5 acre property and indicates that a future land division will be requested to create a forth parcel from the site with each of the parcels containing approximately 1.25 acres. A wash is located in the central portion of the site and is contained within NAOS areas.

Open space, scenic corridors.

NAOS area has been provided through the wash on the site. Minimum 30-foot wide drainage and wildlife areas have been provided between Lot 1

and future Lot 4 to the north.

Policy Implications.

The requested hardship exemption is justified based on existing walls built by neighbors on or near the property lines along the southeast and northwest sides of the site and the common property line between Lots 1 and 2 due to the reduced develop ability of the lots due to the wash and NAOS area located on Lot 2.

Community Involvement.

The applicant has undertaken a Neighborhood Involvement Process and has sent notices of the request to 27 property owners within approximately 300 feet of the site. The applicant received 1 phone call and 1 letter of support from property owners located to the northwest and south of the site respectively. Staff has received 3 phone calls, two in support and one opposed to the request. The person opposed indicated the applicant should be required to conform to the provisions of the Ordinance however, no follow-up letter was submitted. (See Neighborhood Involvement, Attachment #6.)

Other Boards and Commissions.

A GLO abandonment was approved for this site by Council in 2004.

FINDINGS

1. Demonstrated Substantial Hardship that would reduce the ability to use the parcel(s):

The combination of building setbacks, the location of a wash corridor through the site and required 15 foot wall setbacks substantially constrain construction envelopes and reduce the overall use of the site.

2. The requested exemption is consistent with the intent and purpose of the ESL Ordinance:

The property owner has met the intent of the Ordinance by protection of the wash corridor and conserving the character and landscape of the natural desert. Significant open space is provided along the wash corridor for the purpose of stormwater conveyance, wildlife habitat and movement and maintenance of native vegetation in accordance with the intent and purpose of ESL.

3. The application of the new ESLO standards does not achieve significant benefit for protection of the environment and community:

Property line walls currently exist along portions of the property boundary. Creating a 15-foot wall setback on the site without the provision of a corresponding setback from adjoining lots will not achieve a significant benefit or achieve the 30-foot wide drainage and wildlife corridor along property lines that was envisioned by the Ordinance.

4. The requested exemption is in conformance with a previously

adopted version of the ESL Ordinance:

The requested placement of site walls within 15 feet of the property line conforms to the provisions of the previous ESL Ordinance, which allowed walls to be located on property lines.

STAFF

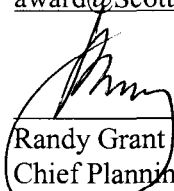
Staff recommends approval of the request.

RECOMMENDATION**RESPONSIBLE DEPT(S)**

Planning and Development Services Department
Current Planning Services

STAFF CONTACT

Al Ward, AICP
Senior Planner
480-312-7067
award@ScottsdaleAZ.gov

APPROVED BY

Randy Grant
Chief Planning Officer
Phone: 480-312-7995
E-mail: rgrant@ScottsdaleAZ.gov

Ed Gawf
Deputy City Manager
Phone: 480-312-4510
E-mail: EGawf@ScottsdaleAZ.gov**ATTACHMENTS**

1. Project Narrative
2. Justification for Exemption
3. Context Aerial
- 3A. Aerial Close-up
4. Land Use Map
5. Zoning Map
6. Neighborhood Involvement
7. City Notification Map
8. Photographs
9. Proposed Site Plan

GOLD DUST PROPERTY

ESLO WAIVER REQUEST

Introduction

The subject property is comprised of approximately 5 acres, bound by Gold Dust Avenue on the south, Cochise Boulevard on the north and is roughly centered between 126th Street to the west and 128th Street to the east. A Land Division Application for the property requesting a 4-lot subdivision has been submitted and is pending with the City of Scottsdale (submitted May 17, 2004).

Discussion

A preliminary meeting with the City regarding the house plans for Lot 1 and the land division application was held in February, 2004 and subsequent application was made on May 17th, 2004. The project application, as submitted, met or exceeded the development standards set forth by the then current ESL Ordinance (ver.2). Following the submittal, the updated ESLO (ver.3) was adopted and included a number of modifications that influenced development standards in ESL designated areas. The modification of greatest consequence to the subject property includes a requirement to provide 15 feet of side yard wall setback where the subdivision is adjacent to a parcel with an existing residence. Throughout the initial submittal/review period, the applicant was not made aware by Staff of the proposed ESLO update, and the ramifications of that update on the proposed land division. Notification to the applicant was made only after several extended review periods, resulting in a rejection of the application in its current form citing the non-conformance of site walls.

The applicant is requesting a waiver of the 15-foot development envelope setback requirement in portions of the site where adjoining properties have constructed side yard walls on the shared property line and between proposed lots 1 and 2 (see attached Conceptual Site Plan exhibit).

Per lot description of wall locations:

- **Lot 1** – Proposed waiver of development envelope setback on east property line in section where existing side wall is currently located. Proposed waiver of western side yard development envelope setback adjacent to Lot 2 – 20-foot building setback requirement will be observed.
- **Lot 2** – Proposed waiver of eastern side yard development envelope setback adjacent to Lot 1. 15-foot setback will be maintained on western side of lot due to existing side wall setback on adjacent property.
- **Lot 3** – Proposed waiver of side yard development envelope setback on western property line where existing side wall is currently located.
- **Lot 4** – No waiver is requested.

Justification for Exemption

1. Substantial Hardship

The proposed development envelopes defined for the property adhere to necessary setbacks for the wash corridor and adjacent sensitive natural habitat. The combination of these setbacks and required ESL 15-foot site-wall setbacks will result in constrained envelopes that reduce the overall use and allowed density of the site which was started with the City prior to ELSO (ver.3) being adopted.

2. Consistent with the Intent and Purpose of the Ordinance

The ESL Ordinance was established to protect sensitive natural areas within the City and promote an increased quality of life for citizens. More specifically the Ordinance is designed to protect residents, structures and significant natural resources. It also is intended to minimize the cost of public services and conserve the character and landscape of the natural desert. The property owner has met these objectives by identifying valuable natural areas and promoting the protection of them by establishing appropriate development setbacks and preservation measures. The addition of 15-foot corridors between development envelopes does not correlate with the intent and purpose of the Ordinance due to the detrimental affect upon existing habitat contained within such areas. These narrow corridors will not promote habitat as a result of restrictive solar orientation, lack of a meaningful amount of undisturbed open space (City staff anticipates 5 feet of disturbance outside of development envelope boundaries resulting from wall construction/improvement activity)

3. No Significant Benefit

Application of the existing ordinance will not significantly increase the quality of the environmentally sensitive portions of the site. The requirement for 15-foot wall setbacks in areas where adjacent properties were not obligated to meet the same setback criteria, will result in open space areas of very low natural and community value as a result of narrow width, heavy shading (detrimental to native species) and excessive wall structure improvements. Higher value open space within the designated wash corridor will be maintained and protected to the benefit of native species, property owners and the enhancement of community character. The ESL requirement for 15-foot wall setbacks will be adhered to in areas where adjacent property owners have employed similar side wall setbacks.

4. Conformance to Previously Adopted ESL Ordinance

The requested exemption is in conformance with previous versions of ESLO adopted prior to May 21, 2004.

Conclusion

The applicant is seeking relief from the adopted ESLO requirements to retain an appropriate development objective for the subject property and to ensure the highest level of environmental benefit for those portions of the property dedicated as natural area open space. The applicant feels that the dedication of open space, in unique

circumstances, does not always conclusively ensure its welfare and contribution to the greater area, particularly under confining circumstances.

The applicant has revisited the site plan as a result of the ELSO updated and has introduced changes to the plan that includes efforts to be consistent with the intent and purpose of the ordinance. With the assistance of City staff, the site plan was revised with sensitivity to their requests and the proposed development plan currently meets or exceeds the objectives and requirements of ESLO (ver.2). Furthermore, the proposed development will also maintain continuity in the type of development that has occurred in the area, thus contributing positively to the character of the area.

Thank you for your consideration of this exemption.



Q.S.
28-58

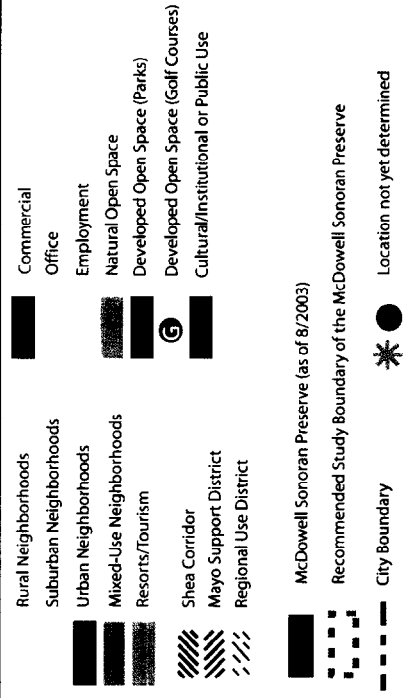
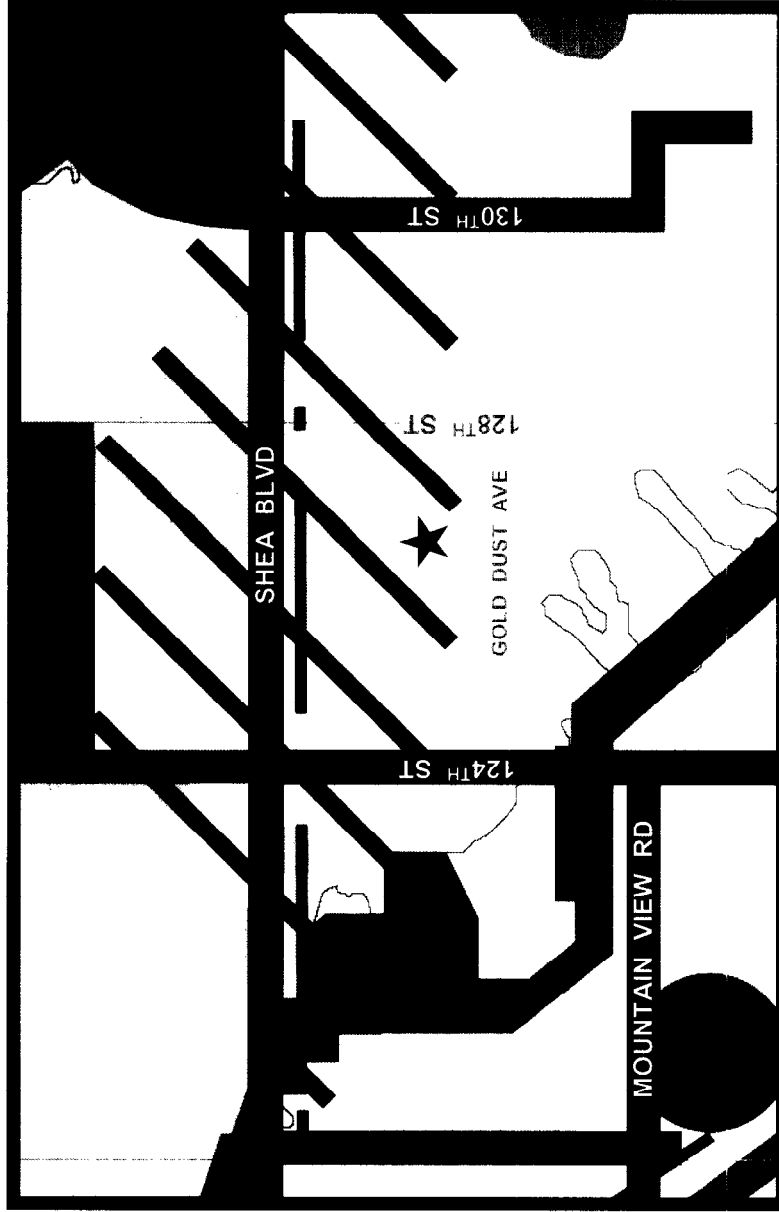
G.I.S. ORTHOPHOTO 2003

Gold Dust Property

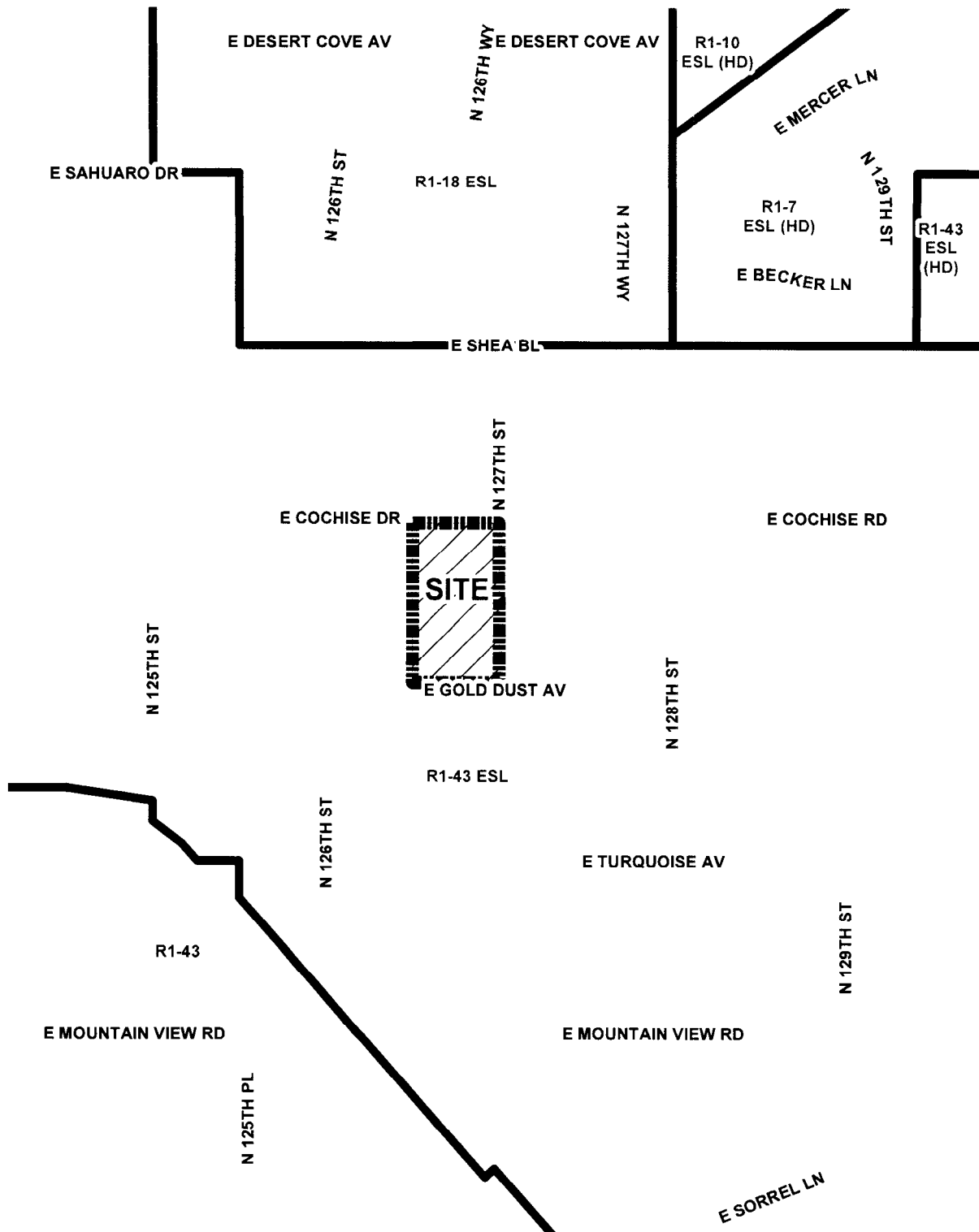
6-HE-2005

ATTACHMENT #3A

General Plan



6-HE-2005
ATTACHMENT #4



6-HE-2005

ATTACHMENT #5



Gold Dust Main, LLC
2944 N. 44th Street, Suite 250
Phoenix, Arizona 85018
Tel: (602) 224-4195 • Fax: (602) 808-3965

June 30, 2005

Mr. Alan Ward
Senior Planner
City of Scottsdale
7447 E. Indian School Road
Scottsdale, AZ 85251

RE: NC Gold Dust Main, LLC
Hardship Exemption for ESLO

Dear Mr. Ward:

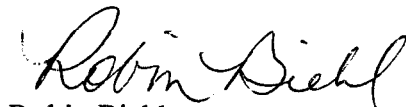
Our request for exemption requires that we provide a Neighborhood Involvement Report documenting any results of our resident notification efforts. Please accept this letter as the final report submittal that documents our notification of residents in the surrounding area and the feedback we have received.

We mailed certified letters accompanied by a site drawing (copies attached) to the neighbors as stipulated in the Neighborhood Involvement Packet on June 14, 2005. The list of recipients and the map of the area in which letters were circulated are attached.

We have received one phone call from the owners of parcel # 217-32-013A (lot numbered 1 on lot map), in which the owner indicated they were in support of our efforts. We have also received a letter from the owner of parcel #217-32-040C (lot numbered 3 on lot map) that indicates support of our efforts (see attached). We have received no negative feedback from any neighbors.

Thank you for your time and consideration.

Sincerely,



Robin Biehl
NC Gold Dust Main, LLC

Encl.

June 14, 2005

Dear Neighbor:

I own 5 acres near you where I am building my home at 12686 E. Gold Dust Avenue. While we were going through the City reviews for my property, the City changed an ordinance which affects wall setbacks on properties in north Scottsdale, including ours. It requires a 15 ft. setback from the property line.

We are making an application to the city for an exemption from the new ordinance in a few locations on my 5 acres. It is called a Hardship Exemption for ESLO.

This is not a rezoning case and we are still only going to have 4 homes on 5 acres as the site is zoned R1-43.

The attached plan delineates the conceptual location of the walls we are proposing.

As there are existing walls on or very close to the property lines of 3 of my lots, it is our desire to attach our wall to the existing walls that are shared rather than have a 15 ft. gap between an existing wall and a new wall. We believe that this would be unsafe and unsightly.

There are 3 locations that we are asking for exemptions as follows:

- Between Lots 1 and 2
- East side of Lot 1 where there is an existing wall.
- West side of Lot 3 where there is an existing wall.

We would very much appreciate it if you could call us with or fax us a letter of support for our request.

If you should have any questions, you are welcome to call me or my assistant Robin at 602.224.4195 or the City representative for the case, Mr. Al Ward at 480.312.7000.

Thank you for your consideration!

Sincerely,

Neil Ginsberg

Neil Ginsburg
Encl.



CASE NO: _____
 PROJECT LOCATION: _____

COMMUNITY INPUT CERTIFICATION

In the City of Scottsdale it is important that all applicants for rezoning, use permit, and/or variances inform neighboring residents, affected school districts, and other parties that may be impacted by the proposed use, as well as invite their input. The applicant shall submit this completed certification with the application as verification that such contact has been made.

Date	Name (person, organization, etc.) and address	Contact Format		
		Meeting	Phone	Letter
	<i>See attached listing</i>			

 Signature of owner/applicant

 Date

217 32 010

Joseph & Dorothy Hong
6051 N 23rd Pl
Phoenix, AZ 85016

217 32 011

George & Winnie Reimann
12730 E Cochise Dr
Scottsdale, AZ 85259

217 32 012C

Anjel Savaya
4725 E Spur Drive
Cave Creek AZ 85331

217 32 012D

Anthony & Tamee Verdone
12690 E Cochise Dr
Scottsdale, AZ 85259

217 32 012E

Ismail & Naheel Hamdan
3202 W Roosevelt St
Phoenix, AZ 85009

217 32 012F

Tony & Cynthia Pontarelli
12650 E Cochise Dr
Scottsdale, AZ 85259

217 32 013A

Robert & Jan Bertsch
8621 Bunton Rd
Willis, MI 48191

217 32 037D

Michael Goldman
12690 E Gold Dust Ave
Scottsdale, AZ 85259

217 32 038C

John & Sharell Mcneil
3407 N 39th Ave
Phoenix, AZ 85019

217 32 038E

Joseph & Donna Olcavage
12601 E Cochise Dr
Scottsdale, AZ 85259

217 32 038F

Ronald & Ann Sanfilippo
12645 E Cochise Dr
Scottsdale, AZ 85259

217 32 040A

Anahid Victoria Ordjanian
7149 170th St
Flushing, NY 11365

217-32-040C

Jean & Mitchell Little
12720 E Gold Dust Avenue
Scottsdale AZ 85259

217 32 040D

Delmar & Martha Demaree
7801 E Gray Rd #2
Scottsdale, AZ 85260

217 32 042D

J P & Julie Zucchini
7537 E McDonald Dr
Scottsdale, AZ 85250

217 32 042E

Joseph Frontauria
12756 E Turquoise Ave
Scottsdale, AZ 85259

217 32 042Q

Gerald & Kim Gluscic
10068 N 128th St
Scottsdale, AZ 85259

217 32 043C

James & Annette Hartsock
12707 E Gold Dust Ave
Scottsdale, AZ 85259

217 32 043D

Barry & Mary Lynn Werthwine
12775 E Gold Dust Ave
Scottsdale, AZ 85259

217 32 043E

Alec & Diane Dollarhide
13031 E Cochise Rd
Scottsdale, AZ 85259

217 32 043F

Dan Pool
12772 E Turquoise Ave
Scottsdale, AZ 85259

217 32 044A

Keith & Laurie Tyny
1070 Siskiyou Dr
Menlo Park, CA 94025

217 32 044E

John Rutherford & L Wells Valana
12652 E Turquoise Ave
Scottsdale, AZ 85259

217 32 045D

Dennis & Debra Eckel
12650 E Turquoise Ave
Scottsdale, AZ 85259

217 32 045E

John & Georgina Dibiasi
10145 N 126th St
Scottsdale, AZ 85259

217 32 045F

Lance & Jill Iserman
10075 N 126th St
Scottsdale, AZ 85259

217 32 038D

Hiridad R Bouzari
12640 E Gold Dust Ave
Scottsdale AZ 85259



802250203

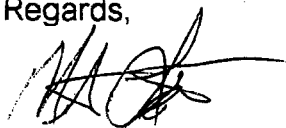
06-20-05

Neil;

I have received your letter dated 6-14-05 with respect to your request for a Hardship Exemption for ESLO. With respect to your lot labeled #1, we are the neighbor just to the East of that lot, and are in support of your request to share the currently existing wall that is on the West most edge of our property.

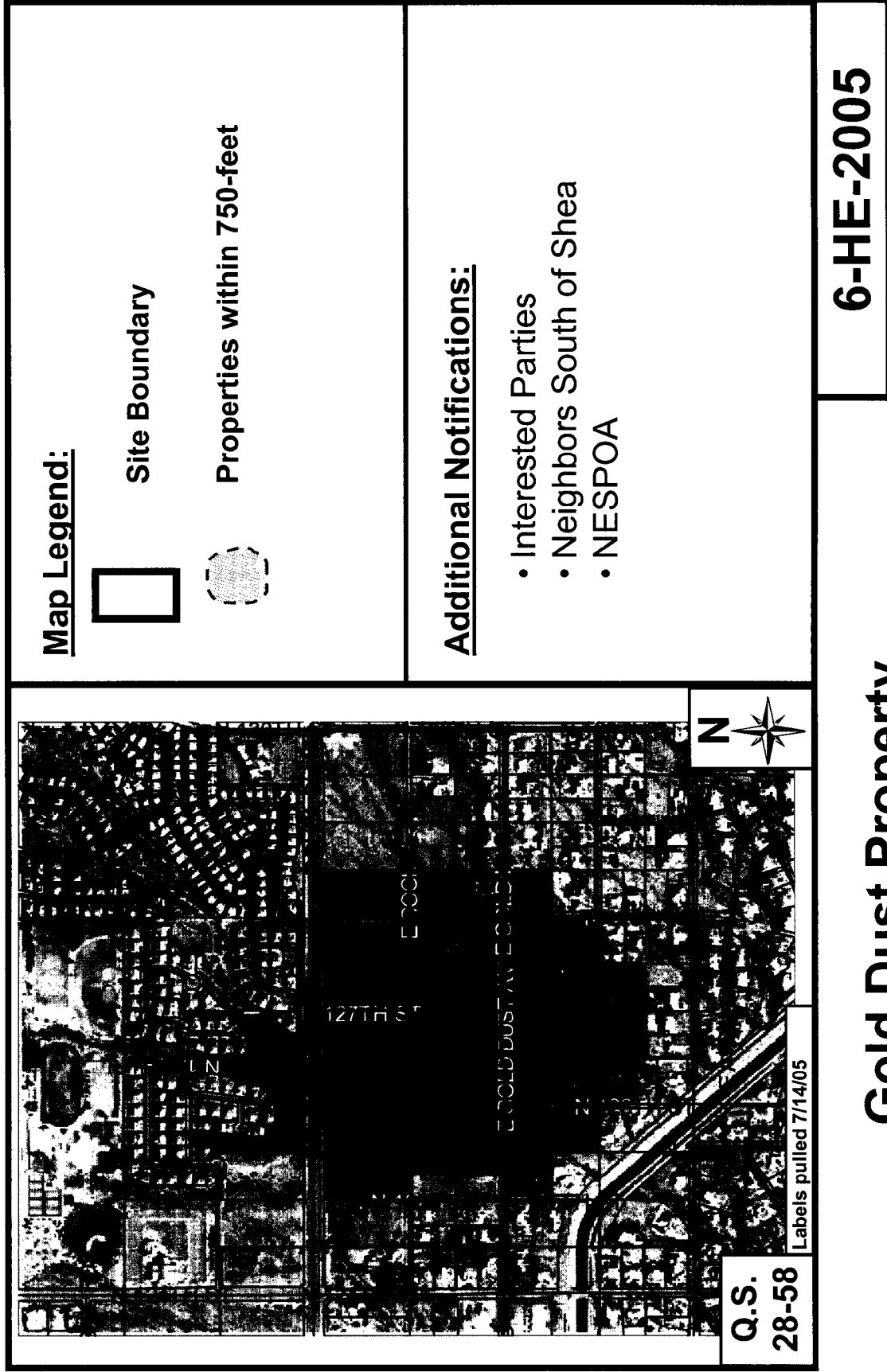
Welcome to the neighborhood.

Regards,

A handwritten signature in black ink, appearing to read 'Mitch Little', with a long horizontal stroke extending to the right.

Mitch Little
12720 E. Gold Dust Ave
Scottsdale, AZ
85259

City Notifications – Mailing List Selection Map



Gold Dust Property

ATTACHMENT #7



CONTEXT PHOTOGRAPHS

GOLD DUST 5
SCOTTSDALE, ARIZONA

LVA
Urban Design
Studio LLC

DATE: 04-08
JOB NO: 0409
DRAWN BY: SG, TRV
REV: 002



Photo 2 - Looking East

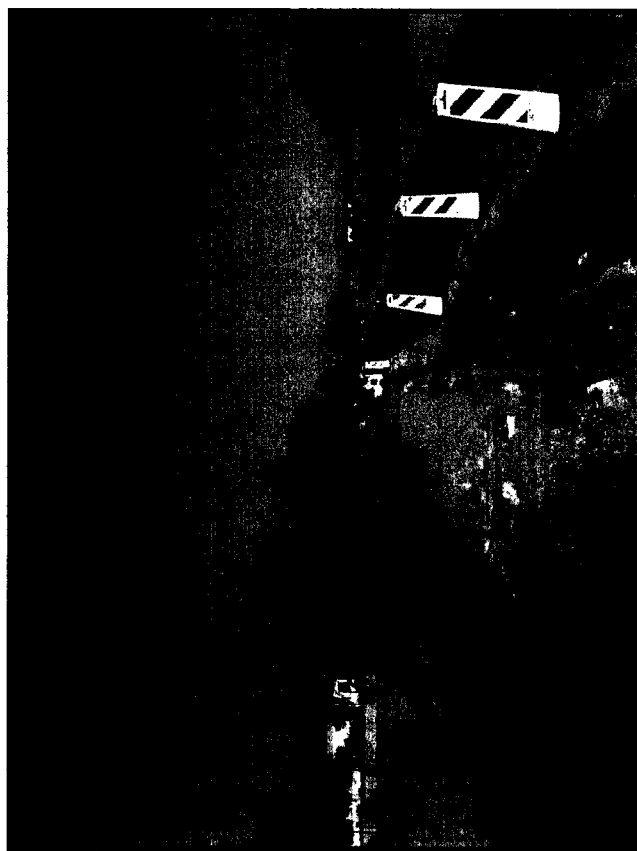


Photo 4 - Looking West



Photo 1 - Looking North



Photo 3 - Looking South

CONTEXT PHOTOGRAPHS

GOLD DUST 5
SCOTTSDALE, ARIZONA

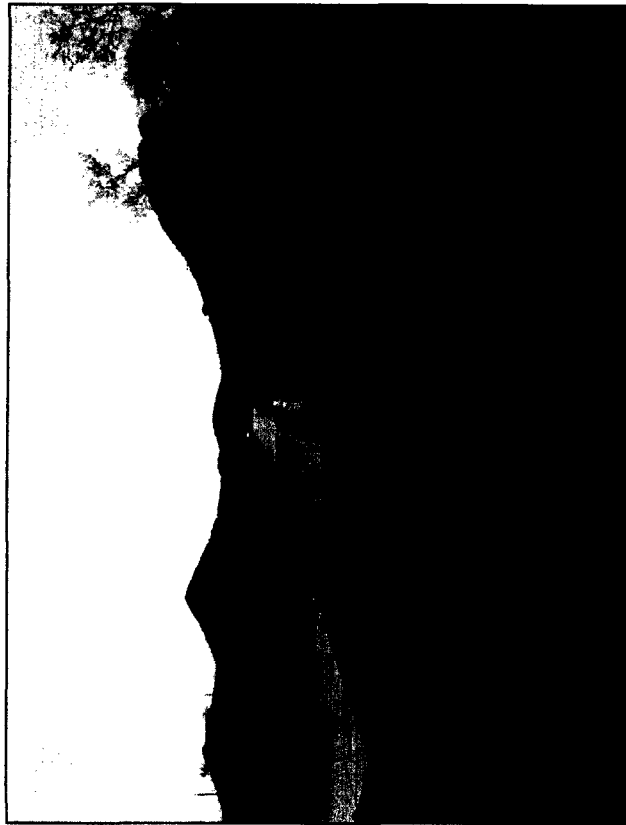


Photo 6 - Looking East

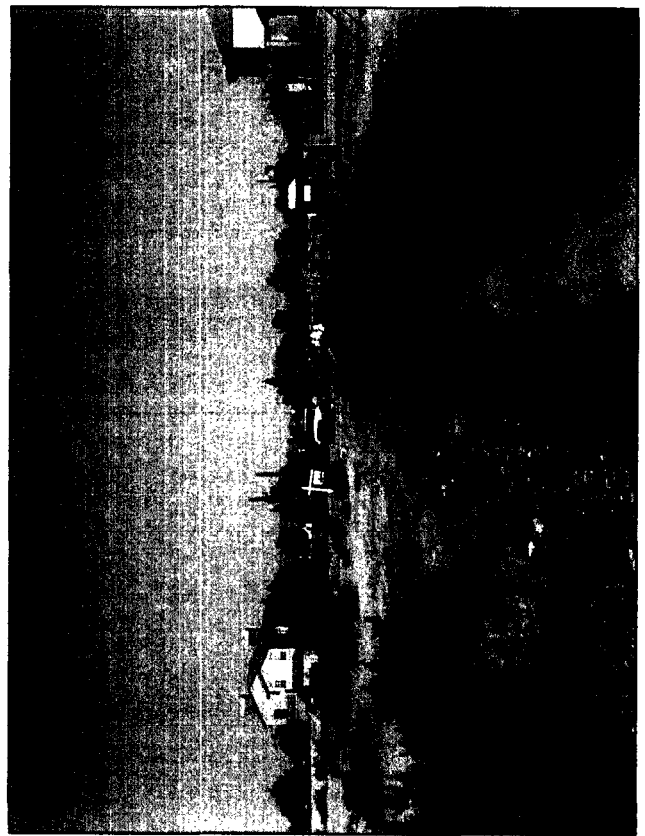


Photo 8 - Looking West



Photo 5 - Looking North



Photo 7 - Looking South

CONTEXT PHOTOGRAPHS

GOLD DUST 5
SCOTTSDALE, ARIZONA

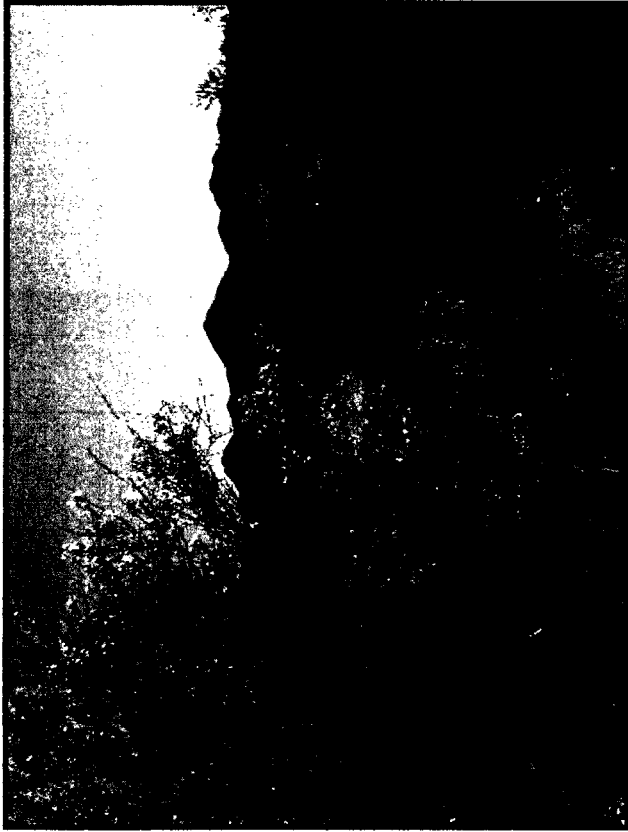


Photo 10 — Looking East

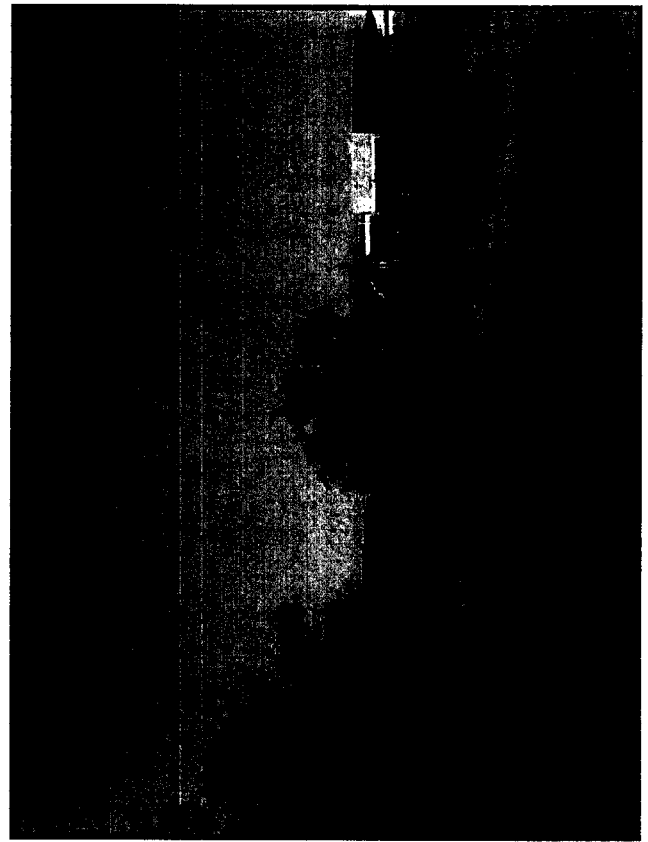


Photo 12 — Looking West



Photo 9 — Looking North



Photo 11 — Looking South

CONTEXT PHOTOGRAPHS

GOLD DUST 5
SCOTTSDALE, ARIZONA

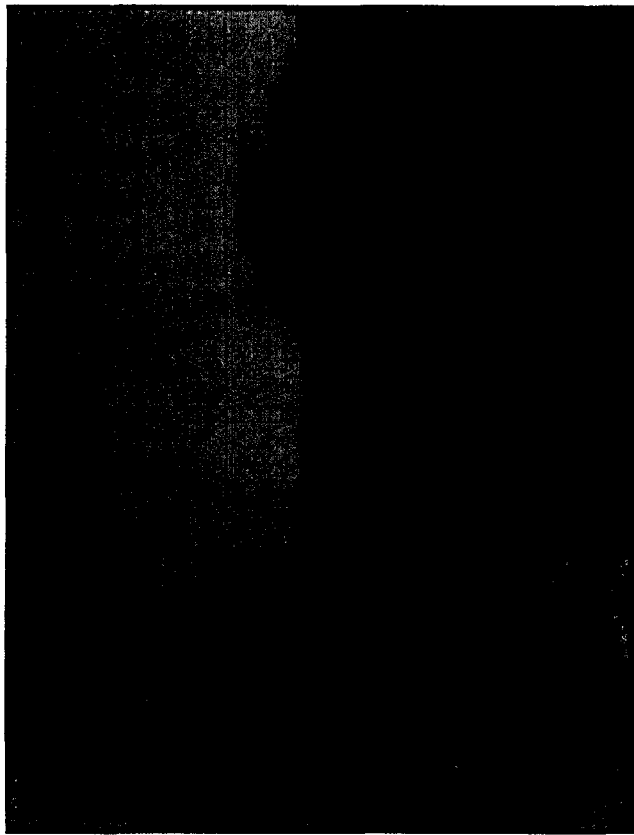


Photo 14 — Looking East

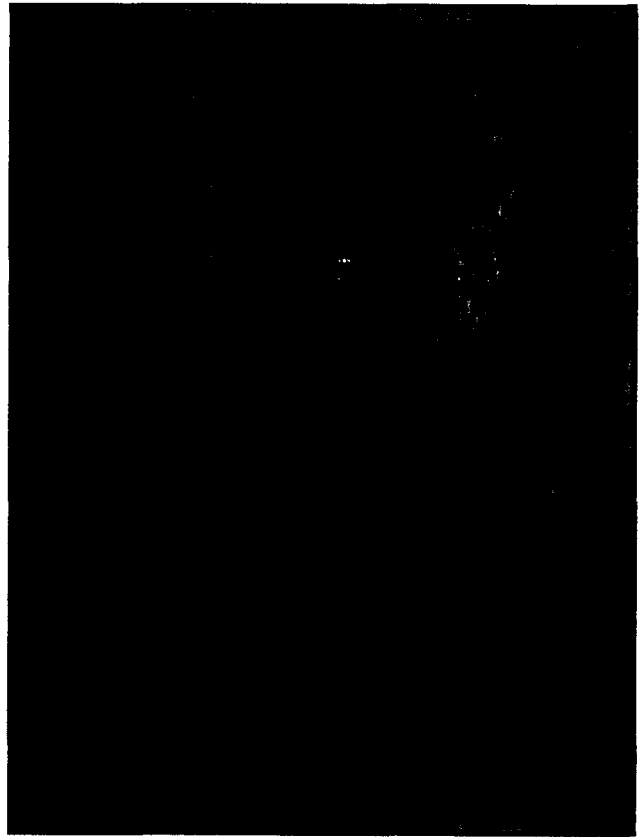


Photo 16 — Looking West



Photo 13 — Looking North

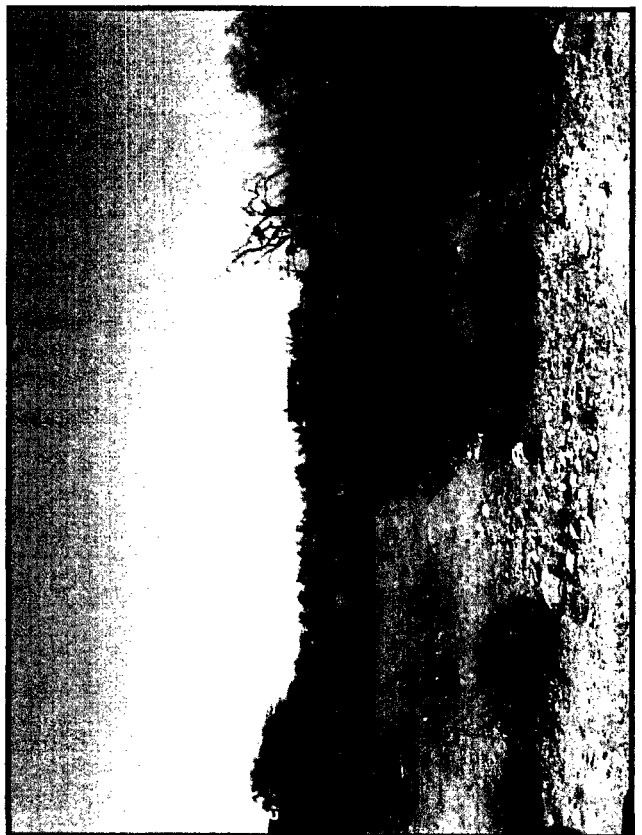
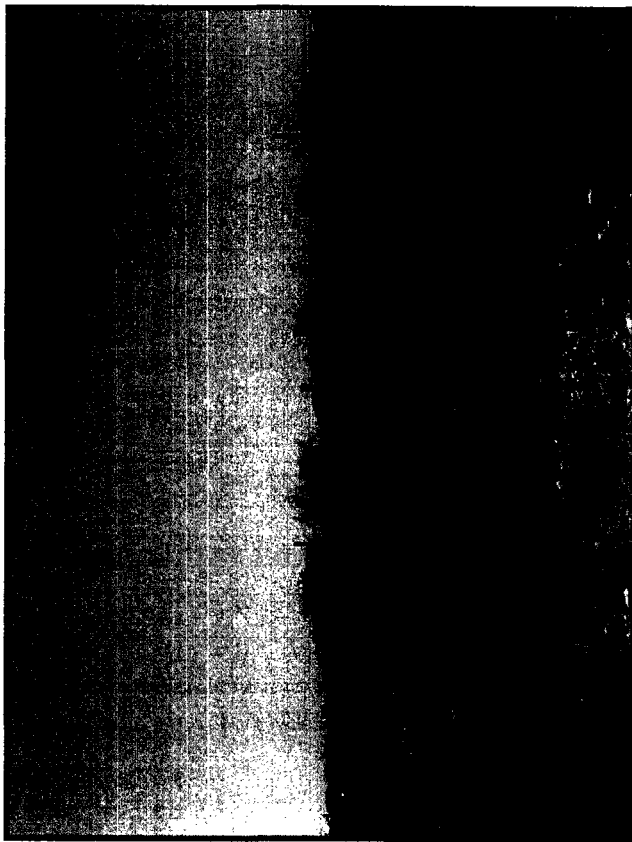
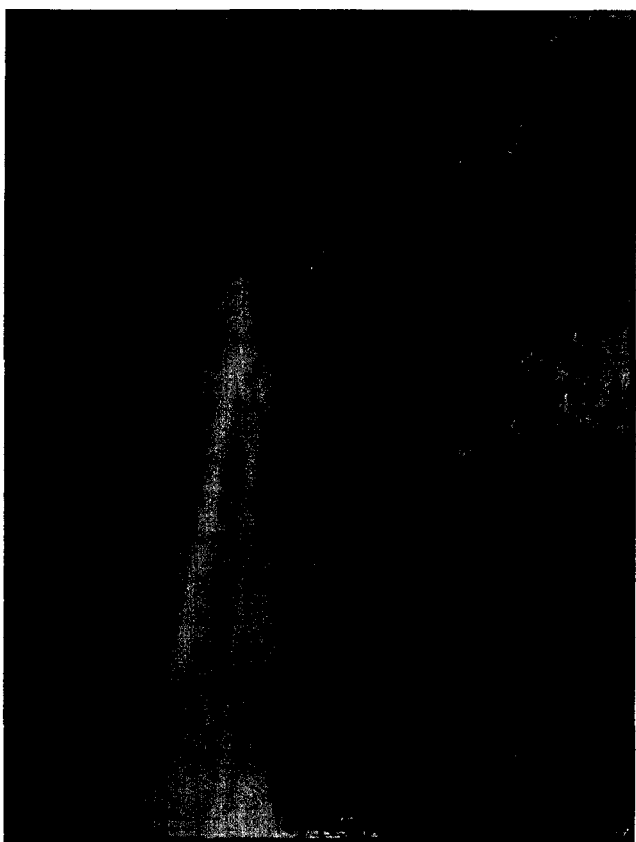
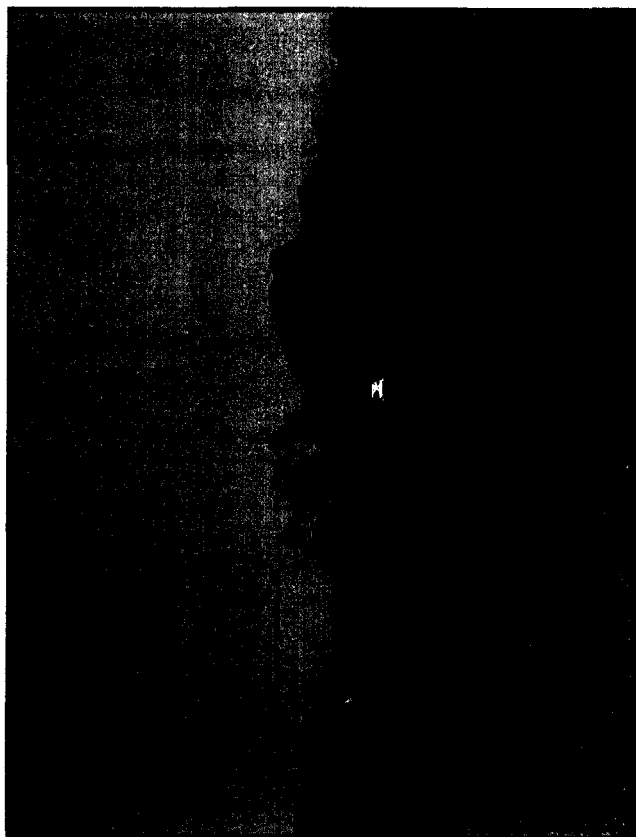


Photo 15 — Looking South

CONTEXT PHOTOGRAPHS

GOLD DUST 5
SCOTTSDALE, ARIZONA



CONTEXT PHOTOGRAPHS

GOLD DUST 5
SCOTTSDALE, ARIZONA

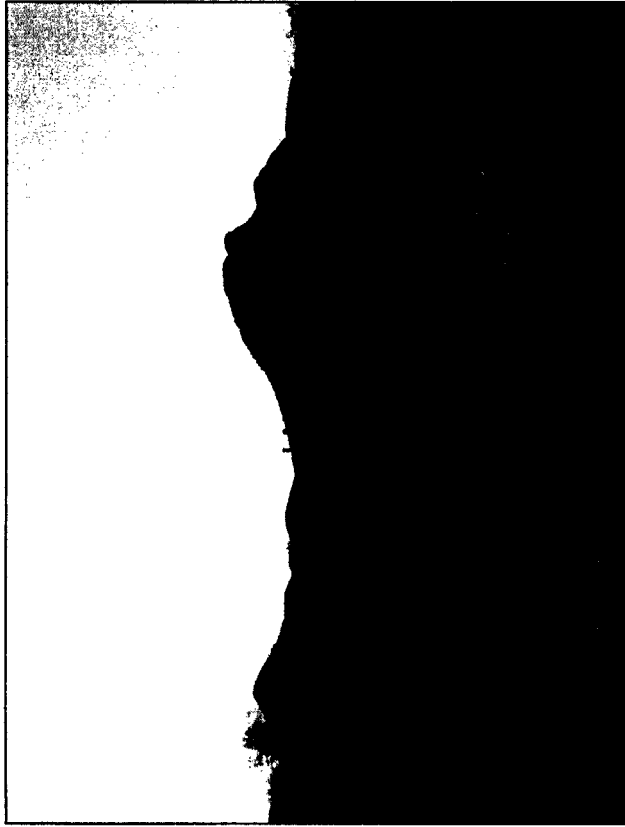


Photo 22 — Looking East

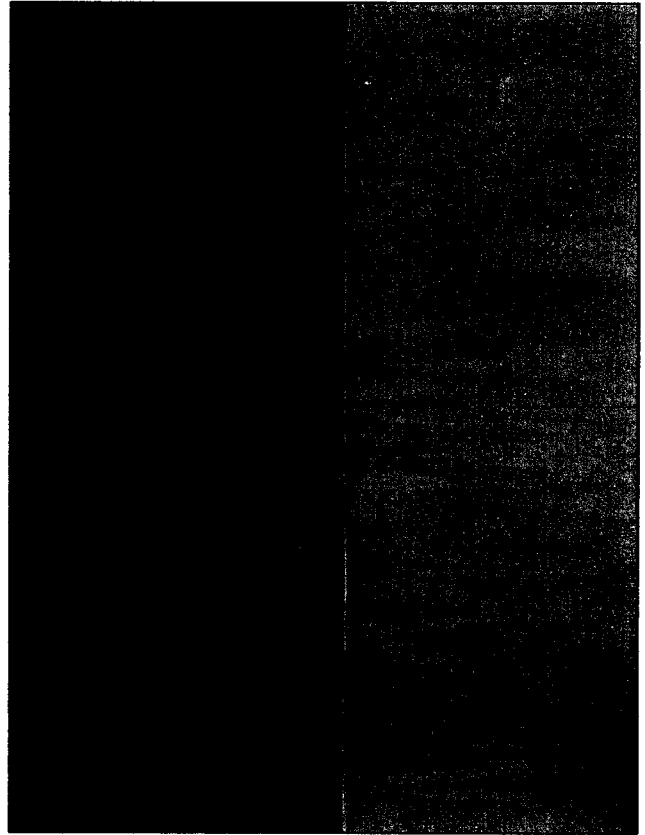


Photo 24 — Looking West

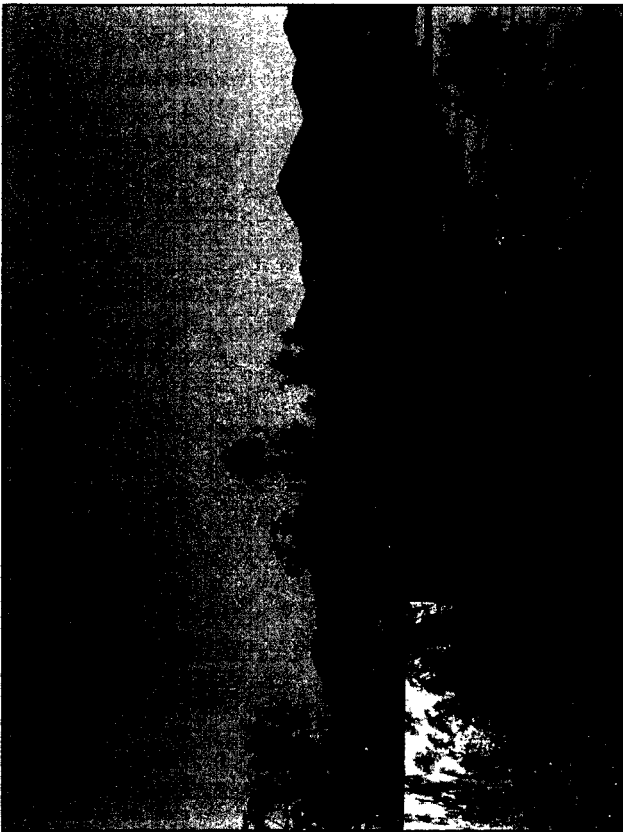


Photo 21 — Looking North

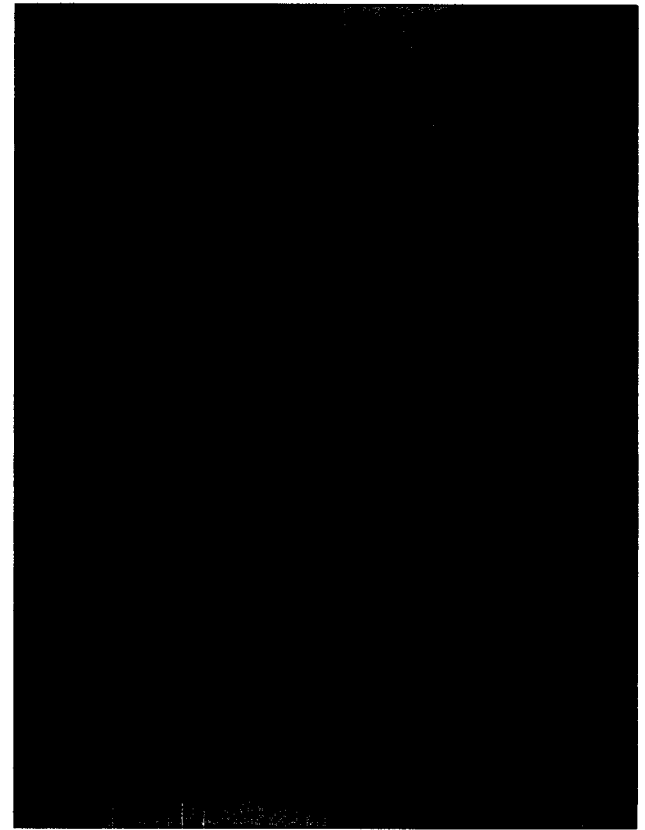
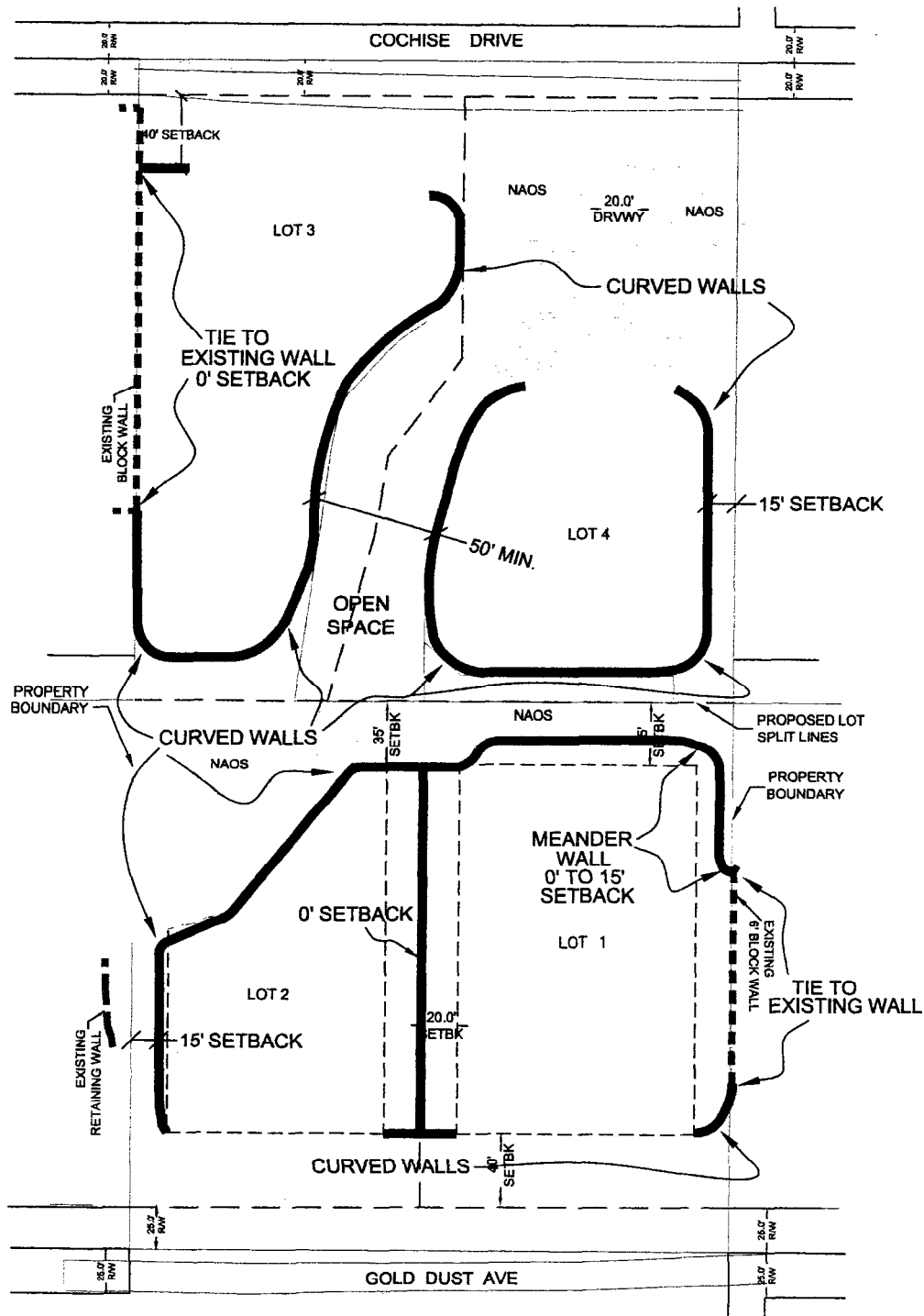


Photo 23 — Looking South

CONTEXT PHOTOGRAPHS

GOLD DUST 5
SCOTTSDALE, ARIZONA



PRELIMINARY SITE PLAN DATA:
 GROSS AREA: 5.0 Acres
 PROPOSED # OF LOTS: 4
 EXISTING ZONING: R1-43 ESL

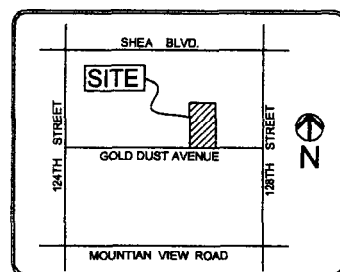
R1-43 ESL SETBACKS:
 FRONT: 40' MIN.
 SIDE: 20' MIN.
 REAR: 35' MIN.

MIN. LOT AREA: 43,000
 MIN. LOT WIDTH: 150'

LEGEND

- CONCEPTUAL NAOS
- EXISTING WALLS
- MEANDERING WALLS
- TOPO - 1 FOOT COUNTOURS
- LOT BOUNDARIES

VICINITY MAP NOT TO SCALE



CONCEPTUAL SITE PLAN

GOLD DUST 5
 SCOTTSDALE, ARIZONA

SCALE: (1"=)



NORTH



DATE: 06-13-05
 JOB: 6001
 BY: STA
 REV: